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Philosophical Perspectives and Definitional Problems of Human Rights: Critical and Intellectual Appraisal

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Abstract:

This article examines the Philosophical Perspectives and Definitional Problems of human rights as a vehicle to robustly expand the critical and intellectual debate on the etymological origin as the nature, scope and utilitarian relevance of the subject. The methodology adopted in this research is mainly the doctrinal approach. This involves an examination of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and juxtaposing same with the content of the UDHR, ICCPR and ICESCR and African Charter on Human and Peoples Rights. The primary and secondary sources are used in this research. The doctrinal approach connotes paying attention to primary documents which involve extensive reading of Legislation, Treaties, Case laws of superior courts, especially the Supreme Courts and Tribunals, and drawing conclusions based on them. Secondary materials includes opinions of eminent jurists and scholars expressed in textbooks, articles published in both national and international journals, unpublished papers on the subject or related subjects were used. Also, non-doctrinal approach was employed relative to human rights violations in Nigeria. Interviews were conducted with officials of the National Human Rights Commission, charged with the responsibility of promoting and protecting human rights to gather information. In the end, Conclusion and recommendation were added.

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Introduction

The Problems of Human Rights by Beitz¹ explores the problems of human rights from the national, regional and global levels. He states that there is a global treaty that prohibits torture as well as cruel, inhuman or degrading treatment or punishment to which most governments make legally binding promises, not to violate these rights. Unfortunately, most governments break these promises contrary to the expectations of the masses. Thus, numerous occasions records of human rights abuses. Taking cognizance of these problems, the author asks certain questions: why do countries legally devoted to human rights on paper so often break the law practically? More importantly, what can be done to close the gap between paper and practice?

In providing an answer to this, this article looks at whether more international legal instruments and procedures would be helpful purposely to probe the actions of gross human rights violations and to ensure that practices are in tandem with the large and increasingly elaborate international human rights system. He directs the minds of all to the basic strategy for promoting respect for human rights. His answers to the problems of recurring human rights violations in spite of the law, are that it is difficult to enforce the law by threatening punishments alone since there are not enough coercive capacity to deter every act of defiance.

He believes that the human rights system needs reform and legitimacy before expansion. In solving the problems of human rights all over the world, the author suggests that, we must approach all claims of universality of human rights with caution and trepidation. This caution is premised on the fact that universalizing creeds, messages, ideas and phenomena is not a natural phenomenon but a constructive notion having an interest for a specific purpose with a definite intent. The author further proffers solutions that pragmatic efforts be made to help persuade perpetrators to believe in the moral truth that respecting human dignity is appropriate and not just cost-effective.

Amid the supposed solutions to the problems of human rights stated above by Beitz, he further emphasized the need for nations to be motivated by passionate concern for the enforcement of human rights at whatever cost in order to retain its political and not metaphysical interests. Indeed international institutions are already responding to this demand notably through the creation of the International Criminal Court, which has the authority in some places to judge crimes such as those against humanity or genocide. In the same vein, solution to problems of global human rights can be done by motivating interest groups to organize campaigns and lobby governments to make changes in public policy.

Other ways are through dialogue, shaping elite agendas, national constitutions and legislation or supporting domestic litigation. To have much relationship to actual protections for human rights, international laws and procedures must creep into domestic affairs, to be taken by local advocates, and applied by local courts. On the whole, the author asserts that facing the reality of our time, what is expedient is stronger enforcement mechanisms including courts that would oblige all governments and people to defend human rights.

¹ Beitz, C.R. *The Idea of Human Rights*. (Oxford: Oxford University Press Inc., 2007), pp.1-17.

The various authors did canvass agreements for or against global human rights based on the challenges which appeal to them in their own perspectives.

Human Rights and Contemporary Issues in Africa was written by Udombana². The entire work is premised on three issues; why human rights violation in Africa; what are the contemporary issues that must not be ignored in any serious discourse on African politics and what is the hope for the future of human rights protection and promotion in the continent.

His postulation is to the effect that in spite of the overwhelming influx of democratic governments in Africa, human rights remains precarious due to the wanton violations of socio-economic, cultural and political rights across the continent. Imputing blame on African leaders for prevalent human rights violations through their indirect and non-violent strategies, African leaders have made life unbearable for non-bourgeoisie forces, disadvantaged constituencies, ethnic and cultural communities. He goes further to show that even when there have been improvements in the area of respect for civil and political rights, governments have found it very difficult to make improvements in the areas of socio-economic, cultural and environmental rights. The crux of his book is germane to this research as Nigeria falls within this continent having similar cases of human rights violations which this work hopes to analyze.

Another book reviewed in this research is the *Human Rights Law and Practice in Nigeria* written by Ogbu³. This book comprises **Seventeen Chapters** and dwells extensively on the concept of human rights with particular reference to the philosophical and historical developments of the concept. Further explanation is on the internationalization of human rights, highlighting the three generations of rights and their subsequent evolution in Nigeria.

Salient point, raised in this book includes the explanation regarding the procedure for the enforcement of human rights in Nigeria. Emphasis is made on the significance of an independent and impartial judiciary in the protection of human rights in Nigeria. He stresses the conflict that exists between fundamental rights and fundamental objectives and directive principles of state policy using Nigerian case laws. Focusing on human rights crises in Nigeria, the author gives a chronological history of regimes that escalated human rights violations in Nigeria. The scholastic thought and diligence explored in this book though commendable did not include the issue of terrorism as a major problem fueling the crisis of human right in contemporary Nigeria. This research intends to tackle this problem.

The alluring contribution of an eminent scholar Umozurike⁴ in his book, *The African Charter on Human and Peoples Rights*, succinctly deals with the issue of human rights at the regional level. Starting from the general introduction, definitions of human rights, the historical antecedents and sequence of human rights violations in Africa, particular reference is made to the massive violations of human rights in the 1970 coupled with the indifferent attitude of the then Organization of African Unity (OAU)⁵ to these violations. The author points out that OAU, relying on the principle of non-interference in the internal affairs of states, did nothing to address flagrant violation of human rights

² Udombana, N.J. *Human Rights and Contemporary Issues in Africa*. (Lagos; Malt house Press Ltd, 2003) p.15

³ Ogbu N.O. *Human Rights Law and Practice in Nigeria*. (Enugu; CIDJAB Publishers, 1999) p.15.

⁴ Umozurike U.O. *The African Charter on Human and Peoples Rights*. (The Hague: Martinus Nijhoff Publishers, 1997) pp.15-70.

⁵ From the Organization of African Unity (OAU) to the African Union (AU), July, 1999 (the Sirte Extraordinary Session) www.africa_eu_partnership.org/... (Accessed on 19/3/2015).

recorded during that period.

On the whole, the author projects the underlying aim of the African Charter. African Charter on Human and People Rights also known as Banjul Charter, 1987 is an international human rights instrument that is intended to promote and protect human rights and ensure basic freedom in the African Continent⁶. Furthermore, African Charter helped to stir Africans from the age of human wrongs into a new age of human rights. It opened up Africa to supra-national accountability. The Charter sets standards and established the groundwork for the promotion and protection of human rights in Africa.

In addition, the author highlights some features of the African Charter with other international and regional human rights instruments which encompass people's rights and enumerated individual duties. He concluded by stating that Nigeria is not only a signatory to the African Charter on Human and Peoples Rights but greatly energized the process leading to its birth.⁷ In addition, Nigeria has also domesticated the Charter by enacting the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, 2004. This notwithstanding, the primacy of the Constitution of the Federal Republic of Nigeria 1999 (as amended) over international human rights treaties whether domesticated or not has been established in the case of *Abacha v. Fawehinmi*⁸

Also reviewed is the book by Gasiokwu⁹ titled: *Human Rights: History, Ideology and Law*. The book which is divided into twelve chapters comprehensively deals with the concept of human rights. The author's explanation on human rights brings out the three generations of rights and their implications on the legal system. He noted the philosophical ideology upon which human rights is built, particularizing his view on what human rights are and how they function. His postulation in this regard is to the effect that human rights in their essence are defined as the "Rights" one has simply because one is a human being, as such, one is qualified to exercise such rights. He asserts that these rights are universally applied by all human beings; hence they are held above all other moral, legal and political claims because they apply to the whole of humanity and stands out as the highest protection of human integrity. He states further that human rights are what hold together human society in relation to government or "right bearers".

On the whole, the author's view on human right is to the effect that when one looks at human right, you will know how it works and what the principles of rights connote.

Articles on origin of human rights in Nigeria were also reviewed. Dada's¹⁰ article titled "*Human Rights under the Nigerian Constitution: Issues and Problems*" lays the background to human rights by discussing the globalization of human rights, stating that human rights issues have not only become a global concern but remarkable interest aimed at protecting and promoting universal respect for, and

⁶ ACHR, www.achpr.org/instruments/achpr/... (Accessed on 15/3/2015).

⁷ Agawe I. P. *et al* Human Rights under the Nigerian Constitution: Issues and Problems. August 25, 2015, https://www.liakdedin.com/pulse/human_right_under_nigeria_constitution_issues_problems- (Accessed on 20/11/2016).

⁸ Gen. Sani Abacha v. Fawehinmi NWLR (2000)6 (pt. 660) p.228.

⁹ Gasiokwu M.U. *Human Rights: History, Ideology and Law*. (Jos: FAB Educational Books, 2003) pp.1-70.

¹⁰ Dada J.A. "Human Rights under the Nigerian Constitution: Issues and Problems" *International Journal of Humanities and Social Science*. Vol. 2 No. 12 (Special issue, June 2012) pp. 1-11.

observance of human rights. Today, the issue of human rights has penetrated the international dialogue, becoming an active ingredient in interstate relations and has burnt the sacred bounds of national sovereignty.

This explains the subsequent numerous resolutions, declarations and conventions which have been passed in the area of human rights. So important is the issue of human rights that virtually all Constitutions, the world over, make provisions for human rights either in the preamble or in the substantive provisions. In Africa for instance, except in Tanzania and Malawi where reference to human rights is to be found in the preamble to the Constitution, most African constitutions include in their substantive sections provision for human rights.

In tracing the genesis of human rights in Nigeria, the author also reviewed post-independence constitutions, i.e. the 1960 Independence Constitution, the 1963 Republican Constitution and the 1979 Constitution where provisions were made for human rights protection. More succinctly is the 1999 Constitution (as amended) which contains eight chapters namely: Chapter 1- General provisions, Chapter 2, fundamental objectives Chapter 3, citizenship, Chapter 4, Fundamental rights, Chapter 5 The Legislature, Chapter 6, The Executive, Chapter 7 The Judiciary, Chapter 8- Federal Capital Territory, Abuja and General Supplementary provisions/ schedule.

Chapter IV contains 11 sections from section 33 to 43. These are devoted to human rights subjects as it covered fundamental human rights, while chapter II of the Constitution consist of 12 sections from section 13 to section 24, couched as the fundamental objectives of directive principles of state policy. According to the author, the protection of human rights in any national Constitution is recognition and part fulfillment of the international obligation of the state to take joint and separate actions in co-operation with the UN for the achievement of universal respect for the observance of human rights and fundamental freedoms. The author in discussing this, states that in Nigeria, there are dichotomy between the rights in the Constitution. While the provisions of chapter IV containing the civil and political rights are justiciable, the provision of chapter II dealing with social, economic and cultural rights are declared non-justiciable by the Constitution. In addition, Nigeria has also domesticated the African Charter on Human and Peoples Rights.¹¹

The author asserts that the non-justice-ability of economic, social and cultural rights poses big problems that seem to have defied concrete solutions. He criticizes the 1999 Constitution (as amended) in relation to some discriminatory provisions in it. Some of the rights are guaranteed to Nigerian citizens only. For instance, the right to private and family life under section 37 is evidently granted to Nigerian citizens only. Similarly, section 41 and 43 of the Constitution, the right to freedom of movement and the rights to acquire and own immovable property anywhere in Nigeria are respectively guaranteed to Nigerians only¹². The author summed up his paper by advocating the removal of discriminatory provisions in the Constitution; as such provisions are not only objectionable but constitute needless negation and deconstruction of global human rights jurisprudence. Without doubt, the institution of these constitutional reforms will enhance human rights protection in Nigeria.

Another article reviewed, is by Towef¹³, titled “*The Rationale of Human Rights Protection: A*

¹¹ Ratification and Enforcement Act (Chapter A9 LFN, 2004) No. 2 of 1983.

¹² Anyawei *Op.cit* p.30.

¹³ Towef A... “The Rationale of Human Rights Protection: A Regulatory Imperative on Human Dignity”. *International Journal of*

Regulatory Imperative on Human Dignity". Towef exhaustively discussed human rights as commonly understood rights which a human being is entitled naturally, because of his being human. They are inalienable, immutable, sacrosanct and indivisible rights. The paper evaluates and exemplifies the importance of human rights and its compatibility with the dignity and worth of human beings. It also stresses the impact of globalization on human rights regimes which impacted on the world as a whole, reflecting prime concerns of the rights of women and minorities through various treaties such as the Convention on the Elimination of All Forms of Racial Discrimination adopted in 1965 but came into force in 1969 and the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) adopted in 1979 which came into force in 1981. The Convention on the Rights of Children, Convention Against Cruel, Inhuman or Degrading Treatment or Punishment adopted by United Nations on December 10, 1984.

Thus, given the universality of human rights, as the cornerstone of international human rights law and the growing and emerging dimensions of human rights in a globalized world, development of human rights law in response to globalization is not new and there is nothing that would prevent further progressive and protective measures safeguarding human rights.

The concept of the equality of rights for marginalized, disadvantaged or vulnerable groups has been a great concern for the international human rights laws. He sums up his work by pointing out that global status of human rights is fraught with limitations. For example, the issue of equality of rights for marginalized, disadvantage or vulnerable group has been of a great concern globally as it appears to defy several policies due to cultural inclination.

This research also examines the article by **Makau**¹⁴. The author questions the processes and politics of standard setting in human rights. Tracing the history of human rights projects, he critically explores how the norms of human rights movement have been created. He looks at how norms are made, who makes them and why. Focusing on the deficits of the international order, and how that order- (defined by multiple asymmetric) determines the norms and the purposes they serve, he identifies areas for further norm development and concludes that norm-creating processes must be inclusive and participatory to garner legitimacy across various divides.

According to the author, the thinking of many scholars on international action on human rights should move from setting legal standards to the implementation of existing standards. He advocates for the implementation of existing standards notwithstanding severe bottlenecks placed on the path of human rights experts and Non-Governmental Organizations (NGOs) in standard setting process.

Morton¹⁵ writes on Indivisibility and Interdependence on Human Rights. The author acknowledges the provisions of Vienna Declaration¹⁶ that all human rights are universal, indivisible, interdependent and interrelated. The international community must treat human rights globally in a fair and equal

Research in Humanities and social Sciences. Vol.1, Issue:8, Oct. Nov. 2013. pp.1-3.

¹⁴ Makau, M. "Standard Setting in Human Rights: Critique and Prognosis". *Human Rights Quarterly*, published by Johns Hopkins University press, 29(2007) pp.547-630.

¹⁵ Morton E.W. "Indivisibility and Interdependence on Human Rights". International Human Rights and Human Diversity Initiative. University of Nebraska. Human Rights and Human Diversity Initiative Monograph Series. vol. 2 NO. 1 2000. p. 10.

¹⁶ Vienna Declaration and Programme of Action, 1993.

manner, on the same footing and with the same emphasis while the significance of national and religious particularities and various historical, cultural and religious backgrounds must be borne in mind. It is the duty of states, regardless of their political, economic and cultural systems to promote and protect all human rights and fundamental freedoms.

The paper examines the twin philosophical pillars of contemporary doctrine of human rights, that is, universality and indivisibility, that the idea of universality is really that of nondiscrimination. That is, that no one may be excluded from possessing human rights on the basis of any of these prohibited grounds of discrimination (usually on grounds of some particular characteristics such as race, religion, language, ethnicity, nationality, sexual orientation or other personal characteristics). A typical challenge to the universalism of human rights comes about when someone tries to argue that a certain person or group of persons do not have the same human rights as other persons. For instance, that women do not have the same right to own property as men do, or that blacks do not have the same right to vote as do whites, or that gays do not have the same rights to the equal protection of the law as do straights. The author further analyzes indivisibility that it concerns not who has a human rights but rather what human rights people have.

There are several distinct rights contained in human rights instruments (Declarations, Treaties and Covenants) that might justifiably be claimed to be human rights. The contemporary canon of human rights refers to the entire set of internationally recognized human rights Declarations and Conventions beginning with the UDHR (1948). The challenge to indivisibility typically come about in the context of national human rights policies in which the authorities or state officials allege certain rights contained do not apply as normative responses to experiences of oppression. That human rights are a special class of universal moral rights that are essentially designed to defend human persons against various forms of oppression, domination and exploitation.

Statement of the problem

Human rights is a fundamental, diverse and dynamic area of intellectual research. Its importance to continued existence and sustainability of the human race cannot be underscored. Incidentally, the first trade-mark of despotic, autocratic and tyrannical regimes is the suppression and undermining of the fundamental human rights of the people. This trademark is synonymous with regimes of military juntas upon taking over the government by force through a coup d'etat.

The first pronouncement of such regime is the suspension of the constitution through the **Constitution Suspension and Modification Decree** which most often oust the jurisdiction of the court on matters relating to promotion and protection of fundamental human rights of the citizens. However, the relentless efforts of Western Super Powers to continue to promote democratic rule and tenets across the globe deserve commendation. At the intellectual level, it behooves on scholars, researchers, eminent jurists and the entire academic world to raise and sustain the tempo of discourse on this subject.

Review of related literature.

Definitional Problems of Human Rights

Human rights like most concepts are not easily susceptible to precise and generally acceptable definition. Since the universal conception of rights was brought about by the United Nations Universal Declaration of Human Rights, 1948, legal scholars and jurists have been grappling with the definition of human rights. Eze Osita argues that "human rights represent the demands or claims which

individuals or groups make on society, some of which are protected by law and have become part of *lex lata* while others remain aspirations to be attained in the future”.¹⁷ This definition is too general and hardly captures the essence of human rights as it lacks specificity, as to which rights is lawful requiring legal action in Courts and which rights are described as mere aspiration. Othman describes the rights as being fundamental to human existence.¹⁸ He went further to assert that although human rights seem to be a modern term, the principle it evokes is as old as humanity. It is that certain rights and freedoms are fundamental to human existence. There are inherent entitlements that come to every person as a consequence of being human, and founded on respect of dignity and worth of each person. They are neither privileges nor gifts given at the whims of a ruler or a Government, nor can they be taken away by any arbitrary power.

The rights are “inherent” in every human being. For Loman, human rights are “rights that every person has because he is a human being, no matter whether they are laid down in documents or not”.¹⁹ Chukwumaeze argues that they are rights “which inhere in a person by virtue of being a human being. Such rights are inalienable in the sense that a person cannot be deprived of them without a great affront to justice. Implied from the principles of inherence and inalienability is the fact that they are universal.”²⁰

Henkin in a comprehensive manner considered the debate about the universality of human rights. He then postulated further that “the idea of human rights is related but not equivalent to justice, the good democracy, strictly, the conception that every individual has legitimate claims upon his or her society in which she or he lives for defined freedoms and benefits”. To call them human rights suggests that they are universal; they are the due of every human being in every human society. They do not differ with geography or do not depend on gender or race, class or status. To call them “rights” implies that they are claims “as of rights” not merely appeals to grace, more than aspirations or assertion of “the good” but claims of entitlement and corresponding obligation in some political order under some applicable law, not only in a moral order a moral law.”²¹

He also contends that: When used carefully, “human rights” are not some abstract, inchoate “good”. The rights are particular, defined, and familiar, reflecting respect for individual dignity and substantial measure of individual autonomy, as well as a common sense of justice and injustice.²² He submits further that the rights are inalienable and that they cannot be bestowed, granted, limited, bartered or sold away. Some of the rights are undoubtedly non-derogable in some jurisdictions. But it is highly controversial to argue that they cannot be granted or bestowed or limited. Apart from the foregoing, there are other controversies associated with human rights and they include attachment to humanism

¹⁷ Eze O. Human Rights in Africa Some Selected Problems (Lagos: Macmillan Publishers, 1984) p.5.

¹⁸ Othman, Penal Reform International Introduction to Human Rights Training for Prison Officials. (Geneva: United Nations Publication, 2005) p.1.

¹⁹ Loman, G.S “Human Rights and the Prisoners” in 8th World Congress Conferencia Internacional (Vienna, Austria, 1993), p.2.

²⁰ Chukwumaeze U. “Socio-Economic and Cultural Rights - The Panacea to Threats on Successful Democracy in Nigeria” in Chukwumaeze U. and Erugo S. (eds.) In Search of Legal Scholarship (Essays in Honour of Ernest Ojukwu) (Awka, Unizik Press, 2001) p.33.

²¹ Henkin, L. “Rights: Here and There” 81, No.4, Columbia Law Review (1991), p.182.

²² *Ibid*.

and universality.

Gavison describes human rights as “rights that ‘belong’ to every person, and do not depend on the specifics of the individual or the relationship between the right-holder and the right grantor.”²³ He further observes that human rights exist notwithstanding whether they are granted or recognized by both the legal and social system where the individual lives.²⁴ In his words, “human rights are moral, pre-legal rights.”²⁵

It is inconceivable how a “right” can exist and be subject to enforcement if neither the legal nor the social system recognizes it as such. Another view is that human beings are holders of human rights because they are integral part of the human species. They enjoy these rights equally irrespective of sex, race, nationality and economic circumstances.²⁶ Archbold argues that human rights are “the moral and/or legal claims arising from the inherent dignity of human beings.”²⁷ Unlike Gavison who claimed that they are “moral, pre-legal rights,” the former said that they are “moral and/or legal claims”.

Justice Nnaemeka-Agu postulated that human rights are part of the laws of the particular state. They are such rights which the particular state has selected from a plethora of rights and given to the citizens and other persons within its frontiers and made enforceable against the particular state or its agencies.²⁸ The description here fits fundamental rights more than human rights. Although, the former is part of the latter.²⁹ From the various definition proffered above, one can identify a common thread running through all and that is the claim that this ‘right’ is largely inherent in human beings³⁰. These rights are: rights to life, rights to freedom; rights to political participation; rights to protection of the rule of law; rights to social, economic and cultural goods. These rights span the generation of rights and involve a complex combination of both “liberty” and “claimed rights”.³¹

In legal science, some of the rights have been extended to persons who under the law are legal persons but not natural persons or human beings. Such rights include the right to fair hearing. The New Zealand’s Bill of Rights,³² in its section 29, expressly states that: “except where the provisions of this Bill of Rights otherwise provide, the provisions of this Bill of Rights apply, so far as practicable, for the benefit of all legal persons as well as for the benefit of all natural persons”. There is no gainsaying the fact that the concept of legal personality covers human beings and non-human beings or artificial persons like corporations. Again, the reading of some national constitutions that contain Fundamental Human Rights will reveal that some of the rights are applicable only to “human beings”; while others

²³ Gavison, R. “On the Relationships between Civil and Political Rights, and Social and Economic Rights” in Coicaud J., Doyle M.W and Gardner A. (eds.) *The Globalization of Human Rights* (Tokyo: United Nations University Press, 2003), p.25.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ishay, M.R. *The History of Human Rights; From Ancient Times to the Globalisation Era* (University of California Press, 2004) p.3.

²⁷ Archibold, C. “The Incorporation of Civil and Social Rights in Domestic Law” in Coicaud et al op.cit p.56.

²⁸ Nnaemeka-Agu, P. “The Role of Lawyers in the Protection and Advancement of Human Rights” (1992) p. 18 CLR 735 being a paper presented during the Law Week celebrations of the Nigeria Bar Association, Imo State of Nigeria, 10th February, 1992.

²⁹ The Relationship between Human Rights and Fundamental Rights is discussed latter in this chapter.

³⁰ Okpara, O. “Nature of Human Rights” in Okpara O. (ed.) *Human Rights Law and Practice in Nigeria (Enugu, Changlo Limited, 2005) pp. 36 – 38*; Ajomo MA “Fundamental Human Rights Under the Nigerian Constitution” in Kalu A. and Osinbajo Y. (eds.) *Perspectives on Human Rights* (Lagos: Federal Ministry of Justice Law Review Series, 1992) p.77.

³¹ Fagan, A. Human Rights: Internet Review Philosophy at www.iep.utm.edu/hum-rits/ (Accessed on 01/11/2015).

³² New Zealand, Bill of Rights Act No 109 of 1990.

are applicable to “everyone” or “persons”.³³ This is hinged on the fact that UDHR emerged as a direct result of the experience of the Second World War on human beings. This has influenced most rational constitutions as has served as the foundation for a growing number of national and international laws and treaties, as well as regional, national and sub-national institutions protecting and promoting human rights³⁴

However, the word “everyone” or “persons”, is more than just human being, as the whole of UDHR and related instruments, such as the European Convention on human rights refers to such words like “companies” and “corporation”³⁵ as “person” under the law once they have been “incorporated”. This signifies creating a “legal person”. Once created, this “legal person” has rights, just as natural or human persons do.³⁶ Hence, they may use their status as legal persons to claim aspects of human rights, such as freedom of speech in order to lobby and advertise. For example, American Tobacco claimed in 2008: that they possess ability, both as manufacturers to communicate and as consumers to receive information. As such they are protected by Article 10 of the ECHR (European Convention of Human Rights) which recognizes free speech (including commercial free speech) as a fundamental right³⁷. The implication of this status by corporation is that they can sue and be sued for Libel, but the contradictions involved in having legal personality is that they cannot vote during an election³⁸.

Legal Framework on Human Rights

The human rights framework is designed to be a legally, politically and morally binding set of principles for governments. A distinction must be made between legally binding treaties, covenants, statutes, protocols and conventions and political statements such as declaration and principles. The UN human rights system also involves a series of organs and institutions designed to promote these rights, including treaty monitoring bodies and special mechanisms. This page introduces a selection of core human rights treaties or instruments generated within the UN³⁹. The International Bill of Human Rights consists of the Universal Declaration of Human Rights, (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) and their two optional Protocols.

In addition to the Declaration of human rights, there are other core human rights treaties, which lay out in more detail what these rights mean. These include the ICESCR and ICCPR, mentioned above. The Conventions vary in status, as some have been ratified by many more countries than others. These include; Convention on the Elimination of All Forms of Discrimination against Woman (CEDAW). Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); Convention on the Rights of the Child (CRC); Convention on the Rights of Person with Disabilities

³³ Rights to Life and Fair Hearing, for example, are available to everyone; but the right to vote is limited to citizens.

³⁴ Paul, H. “Corporations are not Human, so why should they have human rights at www.economic.infor/publication/corporation-are-not-human-so-why-should-they-have-human-rights (Accessed 15/10/2015).

³⁵ Paul, H. Ibid.

³⁶ Ibid.

³⁷ Krzeminska, J. Freedom of Commercial Speech in European. Cambridge Law Journal, Vol. 3, (2003), p. 138.

³⁸ Ibid.

³⁹ John, Ruggie, “Legal Framework on Human Rights: Study of the Legal Framework on Human Rights” at www.euenterprisesif.ed.ac.uk/ accessed on 21/11/2016.

(CRPD); International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICRMW); International Convention for the Protection of All Persons from Enforced Disappearance (CED); International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) while the Regional treaties referred to in this research are: African Charter on Human and Peoples Rights, the European Convention on Human and Peoples Right and American Convention on Human Rights.

The Philosophical Foundation of Human Rights

Human rights law did not just evolve for the fun of it. It emerged to serve certain functions in the society. The formative years of human rights emergence were solely a repelling measure against any tyrannical rule. However, as the historical evolution shows, this was later changed to project the doctrine of freedom, justice and equality hinged on natural justice, purposely for the overall good of mankind. Hence human rights tenets are universally acknowledged. The starting point in understanding the moral foundation of human rights law is to examine the sources of human right claims. Various justifications herald the emergence of the philosophical foundation of human rights. These are: Religion, Natural law, legal positivism, Marxism, the Sociological and the Utilitarian justifications.

Religion

The term “human rights” as such is not found in traditional religions. Nonetheless, theology presents the basis for a human right theory stemming from a law higher than that of the state and whose source is the Supreme Being. If one accepts the premise of the Old Testament,⁴⁰ that Adam was created in the “image of God,” this implies that the act of divine creativity gives human being a high value of worth. In a similar vein, the Quran says “surely we have accorded dignity to the children of Adam⁴¹”. So also, in the Bhagavad-Gitu,” “who sees the Lord within every creature doubtlessly dwelling amidst the mortal: the man sees truly...”⁴²

In a religious context, every human being is considered sacred. Accepting a universal common father gives rise to common humanity and from this flows a universality of certain rights. Because rights stem from a divine source, they are inalienable by moral authority. This concept is found not only in the Judeo-Christian tradition, but also in Islam and other religions with a deistic base.⁴³

Even if one accepts the revealed truth of the fatherhood of God and the brotherhood of all humans, the problem of where human rights flow from still remains. Equality of all human beings in the eyes of God would seem a necessary development from the common creation by God. But the freedom to live as one prefers is not. Indeed, religion generally imposes severe limitations on individual freedom. For most religions, the emphasis falls on duties rather than rights. Moreover, revelation is capable of different interpretations and some religions have been quite restrictive towards slaves’ women and unbelievers, even though all are Gods creations. Thus, at least as practiced, serious incompatibilities

⁴⁰ Genesis 1 vs. 27; King James Version.

⁴¹ Quran 17:70.

⁴² Shestack, J.J.; *The Philosophical Foundations of Human Rights*. Human Rights Quarterly. The Hopkins University Press. (1998), vol. 20[2]: pp.201-234.

⁴³ Swidler, L. *Religious Liberty and Human Rights*; (New York: Philadelphia Hippocrene Books 2005) p. 17.

exist between various religious practices and the scope of human rights structured by the United Nations.

However, religious philosophers of all faiths are engaged in the process of interpreting religious doctrines toward the end of effecting reconciliation with basic human rights prescriptions. This process is largely via hermeneutic exercise, namely reinterpretation of religion's sacred text through both historical explication and a type of prophetic application to modern conditions.⁴⁴ Thus, religious doctrine offers a promising possibility of constructing a broad intercultural rationale that supports the various fundamental principles of equality and justice that underlies international human rights. Indeed, once the leap to belief has been made, religion may be the most attractive of the theoretical approaches. When human beings are not visualized in God's image, then their basic rights may well lose their metaphysical *raison d'être*. On the other hand, the concept of human being created in the image of God certainly endows men and women with a worth and dignity from which the component of a comprehensive human rights system can flow logically.⁴⁵

Positivism as the Autonomy of the State:

Classical positivist philosophers deny an *a priori* as a source of rights and assume that all authority stem from when the state and officials have prescribed.⁴⁶ This approach rejects any attempt to discern and articulate an ideal of law transcending the empirical realities of existing legal systems. Under positive theory, the source of human rights is found only in the enactments of a system of law with sanctions attached to it.⁴⁷ Views on what the law ought to be, have no place in law and are cognitively worthless. The theme that haunts positivist exponents is the need to distinguish with maximum clarity of law as "it is" from law as "it ought" to be, and the positivists condemn natural law thinkers because they have blurred this vital distinction. In its essence, positivism negates the moral philosophic basis of human rights.⁴⁸

By divorcing a legal system from the ethical and moral foundations of society, positive law encourages the belief that the law must be obeyed, no matter how immoral it may be, or however it disregards the well-being of an individual. The anti-semitic edicts of the Nazis, although abhorrent to moral law, were obeyed as positive law. The same is true of immoral apartheid practices that prevailed in South Africa for many years. The fact that positivist philosophy has been used to justify obedience to iniquitous laws has been a central focus for much of the modern criticism of that doctrine. Critics of positivism maintain that unjust laws not only lack a capacity to demand fidelity, but also do not deserve the name of law because they lack internal morality.

Even granting the validity of the criticism, the positivist contribution can still be significant. If the state's process can be brought to bear in the protection of human rights, it becomes easier to focus upon the specific implementation that is necessary for the protection of particular rights. Indeed,

⁴⁴ Shestack, J. *Op. Cit.* p. 46.

⁴⁵ Ibid.

⁴⁶ Roper S.D. Human Rights Review. Interdisciplinary Journal, September, 2013 – vol. 14 – N0.3, Springer, p.13.

⁴⁷ Shestack, J. *Op Cit.* p.46.

⁴⁸ Hart, H.L. Positivism and Separation of Law and Morals. Harvard Law Review, [1957] p.220.

positivist thinkers such as Jeremy Betham and John Austin were often in the vanguard of those who sought to bring about reform in the law. Always under human control a positivist system also offers flexibility to meet changing needs.

Man as a Special Being – Marxism Theory

Karl Marx regarded the law of nature approach to human rights as idealistic and historical. He saw nothing natural or inalienable about human rights, in a society in which capitalists monopolize the means of production. Marx regarded the notion of individual rights as a bourgeois illusion. Concepts such as law, justice, morality, democracy, freedom, and so on were considered historical categories, whose content was determined by the material conditions and the society circumstance of the people. As the conditions of life change, so also the content of notions and ideas.

Marxism sees a person's essence as the potential to use one's abilities to the fullest and to satisfy ones needs.⁴⁹ In capitalist society, production is controlled by a few. Consequently, such society cannot satisfy their individual needs. An actualization of potentials is contingent on the return of man and woman to themselves as social beings, which occurs in a communist society devoid of class conflict. However, until the stage is reached, the state is a societal collectivity and is the vehicle for the transformation of society. Such a conceptualization of the nature of society precludes the existence of individual rights rooted in the state of nature that are prior to the state. The only rights are those granted by the state, and their exercise is contingent on the fulfillment of obligations to society and to the state.

The Marxist system of rights has often been referred to as "parental", with the authoritarian political body providing the sole guidance in value choice. The creation of such a 'special being' is a type of paternalism that not only ignores transcendental reason, but negates individuality.⁵⁰ In practice, pursuit of the priori claims of society as reflected in the interest of communist state has resulted in systematic suppression of individual, civil and political rights.

The Sociological Approach

For many scholars, each of the theories of rights discussed thus far is deficient. Moreover, the twentieth century is quite different from the nineteenth. Natural and social sciences have developed and begun to increase understanding about people and their cultures, their conflicts and their interests. Anthropology, Psychology, and other disciplines lent their insights. These developments inspired what has been called the sociological school of jurisprudence; "school", is perhaps a misnomer, because what has evolved is a number of disparate theories that have the common denominator of trying to line up law with the facts of human life in society. Sociological jurisprudence tends to move away from both *a priori* theories and analytical types of jurisprudence. This approach, in so far as it relates to human rights, sometimes directs attention to the question of institutional development, sometimes focuses on specific problems of public policy that have a bearing on human rights, and aims at classifying behavioral dimensions of law on the society. In a human rights context, the approach is useful because it identifies the empirical components of a human rights system in the context of the

⁴⁹ Karl, M. The Economic and Philosophic Manuscripts of 1844 (Martin Molligan Trans, Dirk .J. ed, 1956), p.19.

⁵⁰ Shestack, J. *Op.Cit.* p. 46.

social process.⁵¹

A primary contribution of the sociological school is the emphasis on obtaining a just equilibrium of interests among prevailing moral sentiments and the social and economic conditions of time and place. In many ways this approach can be said to be built on William James's⁵² pragmatic principle that the essence of good is simply to satisfy demand. This approach also was related to the development in twentieth century society, of increased demands for a variety of wants beyond classical civil and political liberties-such matter as help for the unemployed, the handicapped, the underprivileged, minorities and other elements of society.⁵³

Rights Based on the Value of Utility

Utilitarianism is maximizing and collectivizing principles that require government to maximize the total net sum of happiness of all their subjects. This principle is in contrast to natural theory, which is a distributive and individualizing principle that assigns priority to specific basic interests of each individual subject.⁵⁴ Classic utilitarianism, the most explored branch of this school, is a moral theory that judges the happiness of all concerned. Utilitarian theory played a commanding role in the philosophy and political theory of the nineteenth century and continues with some vigor in the twentieth.⁵⁵ Bentham, who expounded classical utilitarianism, believed that every human decision was motivated by some calculation of pleasure and pain. He thought that every political decision should be made on the same calculation, that is, to maximize the net produce of pleasure over pain. Hence, both government and the limits of government were to be judged not by reference to abstract individual rights, but in terms of what tend to promote the greatest happiness of the greatest number. Because since everybody cannot have equality at the primary level, any one may have to accept sacrifices of the benefits they yield to others which are large enough to outweigh such sacrifices.⁵⁶

Bentham's happiness principle enjoyed enormous popularity and influence during the first half of the nineteenth century, when most reformers spoke the language of utilitarianism. Nonetheless, Bentham's principle met with no shortage of criticism this "felicific calculus", that is, adding and subtracting the pleasure and pain units of different persons to determine what would produce the greatest net balance of happiness, has come to be viewed as a practical, if not a theoretical impossibility.⁵⁷

Later, utilitarian thinkers have reacted to the doctrine in terms of "revealed preferences".⁵⁸ Here, the utilitarian guide for government conduct was not in pleasure or happiness, but an economically focused value of general welfare, reflecting the maximum satisfaction and minimum frustration of wants and preferences, such restatements of utilitarian theory have an obvious appeal in the sphere of economic decision making. Even then, conceptual and practical problems plague utilitarian value

⁵¹ Llewellyn; K. Jurisprudence; Realism in Theory and practice [1962] in Shestack op.cit. p. 211.

⁵² James W. The Meaning of Truth. [www.http://en.m.wikipedia.org/wiki/pragmatism](http://en.m.wikipedia.org/wiki/pragmatism) (Accessed on 22/07/ 2015).

⁵³ Shestack, J. *Op.Cit.* p. 46.

⁵⁴ *Ibid.*

⁵⁵ Shestack, J. *Ibid.*

⁵⁶ Betham, J. Classical Utilitarianism. (1748 – 1832) (Yale: Yale University Press, 2012), p. 37.

⁵⁷ Betham Op. Cit. p. 46.

⁵⁸ Betham, J. *An Introduction to the Principle of Merits and Legislation* (Reprinting in Oxford, 2003), p. 1705.

theory; the ambiguities of the welfare concept, the nature of the person who is the subject of welfare, the uncertain basis of individual preferences of one whose satisfaction is an issue, and other problems inherent in the process of identifying the consequences of an act and in estimating the value of the consequences. The essential criticism of utilitarianism is that it fails to recognize individual autonomy; it fails to take rights seriously. Utilitarianism, however refined, retains the central principle of maximizing the aggregate desires or general welfare as the ultimate criterion of value.

Universal Declaration of Human Rights

The Universal Declaration of Human Rights which was adopted in 1948⁵⁹ represents a landmark development in international human rights jurisprudence. Influenced by the devastating effects of the Second World War, and the need to move away from the massive human suffering that it engendered, the Declaration states in its preamble that ‘disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind.’⁶⁰ It notes further that the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.⁶¹

The Declaration is thus proclaimed as “a common standard of achievement for all peoples and all nations...”⁶². The UDHR agreed by the nations of the world on 10 December, 1948, sets out the basic rights and freedom of all men, women and children⁶³. Since then, human rights standards have developed and have been incorporated into international laws and treaties among which is the International Covenant on Civil and Political Rights (ICCPR, 1966), International Covenant on Economic Torture (CAT) and other cruel inhuman or degrading treatment or punishment. (1987), Covenant Against Genocide (1951), Conventions on the Rights of Child (CRC) (1989), Conventions on Elimination of Discrimination Against Women (CEDAW) (1981).

Civil Political Rights – attempt to protect the individual from the misuse of political power and recognize a person’s right to participate in their country’s political process. They include freedom from slavery, torture and arbitrary arrest, freedom of thought, opinion and religion, the right to a fair trial and equality before the law.⁶⁴ **Economic, social and cultural rights:** Require a government to ensure that its people share in the economic wealth of the country and can participate in its social and cultural life and as well have access to adequate health care, education, social support and a clean environment and develop to their full potential.⁶⁵ While not a treaty itself, the declaration was explicitly adopted for the purpose of defining the meaning of the words “Fundamental Freedom” and “Human Rights” appearing in the United Nations Charter, which is binding on all members’ states.

⁵⁹ 146; UDHR available at (www.un.org/en/document/.../historyof UDHR 1948) United for human rights information kits (www.humanrights.com/...humanrights/...) (Accessed on 8/8/2014).

⁶⁰ Preamble to the Universal Declaration of Human Rights, (UDHR) 1948.

⁶¹ Preamble UDHR (1948).

⁶² *Ibid.*

⁶³ The Universal Declaration of Human Rights. Available at <https://en.m.wikipedia.org/wiki/universal-declaration-of-human-rights> (Accessed on 15/10/2015).

⁶⁴ The Universal Declaration of Human Rights from 1948 – 2008. united Nations at www.un.org/en/events/humanrights/udhr60/. (Accessed on 15/10/2015).

⁶⁵ Leckie *et al*, Economic, Social and Cultural Rights: a Legal Resource Guide. (University of Pennsylvania Press) (2006), p. 14.

For this reason, the Universal Declaration is a fundamental constitutive document of the United Nations. In addition, many international lawyers believe that the Declaration forms part of customary international law⁶⁶ and is a powerful tool in applying diplomatic and moral pressure to governments that violates any of its articles. The 1968 United Nations International Conference⁶⁷ on human rights advised that the Declaration “constitutes an obligation for the members of the international community” to all persons. The Declaration has served as the foundation for two binding United Nations human rights covenants: the ICCPR and ICESCR. The Declaration continued to be widely cited by governments, academics, advocates, Constitutions, Courts and individuals⁶⁸. The Universal Declaration is said to be the “foundational international legal instrument”,⁶⁹ It is the bedrock of international human rights regime. The universalism of human rights was given impetus, strength and emphasis by the Vienna Declaration and Programme of Action.⁷⁰ It provides as follows: The World Conference on Human Rights reaffirm the solemn commitment of all states to fulfill their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law.

This description of UDHR is not left without criticism hence, the American Anthropological Association (AAA) published a written statement wherein it rejected the universality of international human rights norms. It was argued that the rights and freedoms articulated in UDHR were non-universal, culturally, ideologically and politically. The Association viewed with concern the hypocrisy of the colonial regime which packaged and signed UDHR while they committed gross violations of the rights of the colonized people.⁷¹

Generations of Human Rights

To understand human rights properly, resort must be had to the different classifications of human rights popularized by Vasak.⁷² He conveniently categorized Human Rights into: First Generation, Second and Third Generations.

First Generation Rights:

First generation rights are euphemistic expression for civil and political rights which are liberation in character. All civil and political rights are subsumed under this categorization. Under the 1979, 1989 and 1999 Constitutions of the Federal Republic of Nigeria, (CFRN) first generation rights occupy

⁶⁶ Office of the High Commissioner for Human Rights: Digital Record of UDHR. At <https://en.m.wikipedia.org/wiki/universal-Declaration-of-Human-Rights> (Accessed on 15/10/2015).

⁶⁷ Ibid.

⁶⁸ Office of the High Commissioner for Human Rights- Op cit.

⁶⁹ “The Relative Universality of Human Rights” Human Rights and Human Welfare Working Paper No 33 <http://www.du.edu/gsis/hrhw/working/2006/33-donnely-2006.pdf> (Accessed on 15 March, 2015).

⁷⁰ Vienna Declaration and Programme of Action, World Conference on Human Rights, Vienna Vol. 14, No. 25 June (1993), p.15.

⁷¹ Fox, D.J. “*Women’s Human Rights in Africa: Beyond the Debate over the, Universality or Relativity of Human Rights* (New York: Edwin Meden press, 2013), p.8.

⁷² Vasak, K. “*A 30 Years Struggle*”. UNESOP Courier 1977. 29 in Aduba J.N; *et al. Op Ci.t* at p. 32.

primacy of place. In chapter four of the Constitutions aforementioned⁷³, detailed provisions are made for civil and political rights: right to life, right to human dignity, right to personal liberty, right to fair hearing, right to private and family life, right to freedom of thought, consciences and religion, right to freedom of expression and the press, right to peaceful assembly and association, right to freedom of movement, right to freedom from discrimination and right to be compensated or access to court in the case of compulsory acquisition of property. Chapter four imposes numerous obligations on the government not to violate but protect and enforce the fulfillment or enjoyment of these rights. Derogations from their protection are discouraged or allowed exceptionally⁷⁴.

The Second Generation Rights:

The second generation's rights which are egalitarian in nature, consist of economic, social and cultural rights. They are predicated on the material wellbeing of the citizenry with the state playing a pivotal role.⁷⁵ Rights such as right to fair remuneration, right to work, right to adequate standard of living, rights to organize and form a trade union et cetera, fall within the purview of the second generation rights. The second generation rights find their origin in the early nineteenth century and variously promoted by revolutionary struggles and welfare movements.⁷⁶ The Second generation rights are contained in the International Covenant on Economic, Social and Cultural Rights⁷⁷ as well as Chapter II of the Constitution of the Federal Republic of Nigeria, 1999, albeit in Chapter II certain foundations which are akin to economic, social and cultural rights are also enumerated along with other formulations and collectively termed Fundamental Objectives and Directive Principles of State Policies.

In Nigeria, the rights in Chapter II of the Constitution of the Federal Republic of Nigeria are non-enforceable by virtue of section 6(6) (c) and section 13 of the 1999 Constitution. They are said to be mere directive or sign post which governments are enjoined to fulfill but not obligatory. Sadly, the International Covenant on Economic, Social and Cultural Rights is in itself inapplicable by virtue of section 12 of the Constitution which requires that for an International instrument to be domesticated it requires this condition, the ICESCR has not met. Thus, these sets of rights, which are quintessential to human existence and which ought to reinforce the civil and political rights, are despondently not made justiceable in Nigeria.

My suggestion to the above is that, since these rights are contingent to reclaiming human rights promotion in Nigeria and worldwide, it is important to make it justiceable in Nigeria as same is ratified in South Africa and India⁷⁸. This suggestion is predicated on the contemporary agitation of human

⁷³ Constitution of the Federal Republic of Nigeria CFRN, 1999 (as amended).

⁷⁴ Section 33-42 of the Commission of the Federal Republic of Nigeria (1999) (as amended).

⁷⁵ Shikyl, S.S. "The Generations of Human Rights" [1998] Vol. 4. No. 4 current Jos Law Journal, p.32.

⁷⁶ Vasack. *Op.cit.* p. 35.

⁷⁷ The United Nations Human Rights Treatises include International Covenant on Civil and Political Rights (ICCPR); International Current on Economic Social and Cultural Rights (ICESCR) on the Elimination of An forms of Racial Discrimination (CERD). Convention of the Elimination of Discrimination against Women (CEDAW). Convention on the Right of the Child (CRC). Convention against Torture and other Cruel, inhuman or Degrading Treatment or Punishment (CAT). ([www.equalityhumanrights.com.about-us/ourwork/humanrights/inveritonal-frame](http://www.equalityhumanrights.com/about-us/ourwork/humanrights/inveritonal-frame) (Accessed on 4/9/2015)).

⁷⁸ In the *Minerva Mills v. Union of India* 1980 AR 1789, 1981 SCR (1) 206 at 1843. Justice Bhaguati emphasizes the relevance of socio-economic rights in his notable pronouncement to the effect that:... "to a large majority of

rights tenets which goes beyond first generation. Today, there are averages of reasons respecting the non-justifiability of the second generation rights. Hence, public consciousness that calls for enforcement of this second generation rights which is aimed at advancing the dignity of humanity worldwide.⁷⁹

The Third Generation Rights:

These rights deal with the question of solidarity, they have emerged out of the plight of the third world countries which have been exploited for many decades⁸⁰ they relate to the organic and corporate existence and working of the society. They include the right to safety and healthy environment, the right to development and the right to share in the common heritage of mankind. These rights are still in the process of progressive development and it is hoped that the cooperative synthesis which forms the anchor point of this generation of human rights will be concretized.

It is important to reveal that, the categorization of human rights into generations is not intended to engender generational conflicts. It is, therefore, necessary to appreciate the fact that all the generations of human rights are inter – related and inter dependent.⁸¹

Conclusion and recommendation

As earlier stated in the Statement of the problem, Human rights is a fundamental, diverse and dynamic area of intellectual research. Its importance to continued existence and sustainability of the human race cannot be underscored. Incidentally, the first trade-mark of despotic, autocratic and tyrannical regimes is the suppression and undermining of the fundamental human rights of the people. This trademark is synonymous with regimes of military juntas upon taking over the government by force through a coup d'etat. The first pronouncement of such regime is the suspension of the constitution through the constitution suspension and modification decree which most often oust the jurisdiction of the court on matter relating to promotion and protection of fundamental human rights of the citizens. However, the relentless efforts of Western Super Power to continue to promote democratic rule and tenets across the globe deserve commendation. At the intellectual level, it behooves on scholars, researchers, eminent jurists and the entire academic world to raise and sustain the tempo of discourse of the subject.

people who are living in almost subhuman existence in conditions of abject poverty and for whom life is one long unbroken story of want and destitution, notions of individual, freedom and liberty, though representing some of the cherished values of a free society would sound as empty words bandied about in the daring rooms of the rich and well-to-do, and the only solution for making this rights meaningful to them (is) to make the material conditions and usher in a new social order where socio-economic justice (will) inform all institutions of public life, so that the pre-conditions of fundamental liberties for all may be secured”.

⁷⁹ South Africa Ratifies the International Covenant on Economic, Social and Cultural Rights on 12th January, 2015. www.right-to-education.org/news/south-africa-ratifies-international-covenant-economic. (Accessed on 22 - 07 – 2015).

⁸⁰ Tarhule, V.V. Human Rights, Self-Determination and Peoples Rights, Seminar Paper Presented to the Faculty of Law Benue State University 1999, pp.5 – 7.

⁸¹ Basic Characteristic of Human Rights; [Accessed from www.uber.digest.infor/2011/12/uhata... on 15th November, 2014.]